

In the Court of Appeals of the State of Alaska

Andrew J Dayton,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13466**

Order

Motion to Remand and Request for
Representation Hearing

Date of Order: **November 21, 2019**

Trial Court Case No. **4FA-98-02438CR**

Andrew J. Dayton is currently represented by Douglas O. Moody, an attorney with the Public Defender Agency. Mr. Moody has filed a motion asking this Court to remand this case to the superior court to determine if the Public Defender Agency has a conflict of interest, and if so, to have the superior court appoint new counsel to represent Mr. Dayton. This Court noted in an August 19, 2019 order that it is unclear what claims Mr. Dayton is raising in this case, and Mr. Moody explains that depending on which claims Mr. Dayton wishes to pursue, the Agency may have a conflict of interest.

Accordingly, **IT IS ORDERED:**

1. This matter is remanded to the superior court to determine whether the Public Defender Agency has a conflict of interest in this case. If the superior courts finds that the Agency does have a conflict, then the superior court is directed to make an appropriate appointment of counsel to represent Mr. Dayton in this case. A copy of Mr. Moody's request for this remand is attached to this Order to assist the superior court's inquiry.

2. The superior court's report on this matter shall be transmitted to this Court on or before **December 16, 2019**. This deadline can be extended by the superior court for good cause conditioned upon a status report to this Court.

3. In addition to the motion to remand, there is a pending motion to dismiss this case. This motion will be **held in abeyance**, pending the superior court's report upon remand.

4. This order is entered prior to the due date for an opposition. If a timely opposition is filed, this matter will be referred to a judge for consideration *de novo*. App. R. 503(d).

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts



Beth A. Pechota, Deputy Clerk

cc: Court of Appeals Judges
Judge Christian
Trial Court Clerk - Fairbanks

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